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In The

Supreme Court of the United States

No. 120

FRANK R. FRANKO,
Petitioner,

v.

MAHONING COUNTY BAR ASSOCIATION,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Ohio

PETITIONER'S SUPPLEMENTAL BRIEF

Petitioner files this supplemental brief, pursuant to Rule 24(5), to call to the Court's attention the filing on September 29, 1969, of a petition for writ of certiorari in *Ruffalo v. Mahoning County Bar Association*, No. 669, October Term, 1969.

Petitioner suggests that it may be appropriate for the Court to withhold consideration of the petition in the instant case until it has the opportunity to consider the

petition in the *Ruffalo* case. The first and prime question raised in the instant petition is whether the Due Process Clause of the Fourteenth Amendment, as interpreted and applied by this Court in *In re Ruffalo*, 390 U.S. 544, obligates the Ohio Supreme Court to vacate and reconsider its earlier disbarment order where one of the charges of misconduct was added during the course of disciplinary proceedings without prior notice or opportunity to prepare a defense. That is precisely the question raised by the new *Ruffalo* petition, which seeks direct review of the Ohio court's refusal to take corrective action in that case in light of the earlier *Ruffalo* ruling of this Court. That ruling was made in the context of reviewing a Sixth Circuit order of disbarment premised upon the Ohio procedure which the Court found to be constitutionally defective. The Ohio court has now refused to take the corrective action that the Court clearly indicated was necessary in its *Ruffalo* opinion. See *Armstrong v. Manzo*, 380 U. S. 545, 552.

The identity of the questions presented in this and the *Ruffalo* petitions, and the consistent course of defiance of the *Ruffalo* ruling shown by the Ohio court in these two cases, combine to make it appropriate to withhold action on the instant petition until the *Ruffalo* petition is ripe for consideration.

Respectfully submitted,

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